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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,674	09/23/2003	John Anthony Pescatore JR.		5545

7590  
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1661 Mot Smith Drive  
Honolulu, HI 96822

02/08/2008

EXAMINER
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SZMAL, BRIAN SCOTT

ART UNIT	PAPER NUMBER
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3736

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/669,674		PESCATORE, JOHN ANTHONY	
	Examiner		Art Unit	
	Brian Szmaj		3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 8-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Election/Restrictions***

1. Applicant's election without traverse of Claims 1-7 in the reply filed on February 9, 2007 is acknowledged.

***Claim Objections***

2. Claims 1-7 are objected to because of the following informalities: the elected claims are replete with grammatical errors and do not conform to standard US practice. The claims should be amended below to overcome this objection. Furthermore, the current prior art rejection is being based upon the below amended claims.

1. (amended) A system that asymmetrically stimulates ~~at least~~ the parvocellular and the magnocellular pathways of the ~~bineocular~~ visual processing center of a brain while displaying of at least one set of ~~displayed~~ images comprising:

a means for controlling of ambient lighting conditions ~~in order~~ to induce mesopic vision for both eyes;

a means for storing and/or displaying at least one set of images that are either stationary or transient;

a means for blocking peripheral vision of the space outside of the ~~said~~ means of for displaying images; and

an arrangement of optics that ~~asymmetrically stimulates at least~~ provides an asymmetrical stimulation of the parvocellular and magnocellular pathways of the bineocular visual processing center of the brain ~~of the at least one set of images.~~

2. (amended) The system ~~A means~~ as claimed in claim 1 wherein the step means of for controlling of ambient lighting comprises:

coarse adjustment of a room's general illumination; and

fine adjustment of the light intensities reaching each eye with an independent control of broad spectrum optical attenuation filters.

3. (amended) The system ~~A means~~ as claimed in claim 1 wherein the step means of for displaying at least one set of images is created for each eye either chemically, electronically or optically such that at least two sets of displayed images are viewed simultaneously.

4. (amended) The system ~~A means~~ as claimed in claim 1 wherein the step means of for creating at least one set of images for each eye comprises means for creating two sets of images, one set for each eye, which are simultaneously displayed for each eye.

5. (amended) The system ~~A means~~ as claimed in claim 1 wherein the step means of for blocking peripheral vision of the space outside of the ~~said means of for~~ displaying images comprises:

spatial filters; and

refractive and/or reflective and/or dispersive optics for lateral and/or angular magnification of an image.

6. (amended) The system ~~A means~~ as claimed in claim 1 wherein the step ~~consisting of~~ an arrangement of optics ~~that asymmetrically stimulates at least the parvocellular and magnocellular pathways of the binocular visual processing of at least one set of images~~ is independently controlled with respect to each eye's view and comprises at least one

of spatial and/or optical filters that are selected from the group consisting of solid, liquid or gaseous filter material.

7. (amended) The system ~~A means~~ as claimed in claim 1 wherein the ~~step consisting of~~ an arrangement of optics ~~that asymmetrically stimulates at least the parvocellular and magnocellular pathways of the binocular visual processing of at least one set of images~~ further comprises simultaneously viewing at least two sets of images, at least one set by each eye and ~~that the~~ at least two sets are made distinguishable in terms of size, shape, color, hue, luminosity contrast, resolution, and/or brightness.

Appropriate correction is required.

3. Claim 1 is objected to because of the following informalities: In line 6 of the amended claim, "a means for storing and/or displaying" is objected to due because a single means is incapable of performing both storing and displaying. Furthermore, due to the fact that Claim 3 further limits a displaying means, it appears that "a means for storing and/or displaying" should read as "a means for displaying". Appropriate correction is required.

4. Claim 4 is objected to because of the following informalities: In line 1 of the claim, "the means for creating at least one set of images" lacks antecedent basis because Claim 1 does not disclose a means for creating images. Claim 4 should either be amended to recite Claim 1 "further comprises" a means for creating images, or, the claim should be amended to read as "the means for displaying" images. Appropriate correction is required.

5. Claims 1, 3, 4 and 7 are objected to because of the following informalities: The claims recite "two sets" of images, while the current specification does not support more than one set of images being displayed to the person at a single time. In Claim 4, it states that one set is displayed to one eye and the second set is displayed to the second eye. However, based on the dictionary definition of "set", the word "set" implies that there is a pair of images in the set for displaying a single image to each eye at the same time. Therefore, the "one set" should read as "one image" and the "two sets" should read as "one set". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim discloses a means for blocking peripheral vision utilizing "refractive and/or reflective and/or dispersive optics for lateral and/or angular magnification of an image". The current specification does not support the above means

Art Unit: 3736

for magnifying an image let alone blocking peripheral vision utilizing the above optical arrangement.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofeldt (5,099,858) in view of Watt (3,782,364).

Hofeldt discloses a means for applying a stereoscopic image to the eyes of a person and further discloses a means for storing at least one image that is either stationary or transient; an arrangement that provides an asymmetrical stimulation of the parvocellular and magnocellular pathways of the visual processing center of the brain; and the arrangement of optics is independently controlled with respect to each eye and comprises a spatial or optical filter that is solid. See Figures 1-6; Column 4, lines 37-68; Column 5; and Column 6, lines 1-31.

Hofeldt however fails to disclose a means for controlling ambient lighting conditions to induce mesopic vision for both eyes; and a means for blocking peripheral vision of the space outside of the displaying means.

Watt discloses a means for testing eyes and further discloses a means for controlling ambient lighting conditions to induce mesopic vision for both eyes (see

Column 3, lines 46-57); and a means for blocking peripheral vision (20) of the space outside of the displaying means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the means of Hofeldt to include a means of controlling ambient lighting and limiting the peripheral vision, as per the teaching of Watt, since it would provide a means of controlling a vision test.

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hofeldt (5,099,858) and Watt (3,782,364) as applied to claim 1 above, and further in view of Lieberman (3,832,041).

Hofeldt and Watt, as discussed above, disclose a means for testing a person's eyesight and further disclose an adjustment means of the light intensities reaching the eyes with an independent control of broad spectrum optical attenuation filters, but fail to disclose a coarse adjustment of a room's general illumination.

Lieberman discloses a means of testing a person's eyesight and further disclose the coarse adjustment of a room's lighting through the use of a rheostat. See Column 2, lines 6-9.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Hofeldt and Watt to include the ability to adjust the general illumination of the system, as per the teachings of Lieberman, since it is well known in the art to adjust ambient lighting during a vision test or during a visual presentation.



12. Claims 3, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hofeldt (5,099,858) and Watt (3,782,364) as applied to claim 1 above, and further in view of Ohmura et al (2002/0001472 A1).

Hofeldt and Watts, as discussed above, disclose a means of displaying a stereoscopic image to a person, but fail to disclose displaying a pair of images to the person simultaneously; and a means of creating a pair of images for simultaneous display to the person's eyes.

Ohmura et al discloses a means of displaying a stereoscopic image to a person and further disclose displaying a pair of images to the person simultaneously; and a means of creating a pair of images for simultaneous display to the person's eyes. See Figure 46; and Paragraphs 0413-0415.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Hofeldt and Watts to utilize a pair of images to produce a stereoscopic image, as per the teachings of Ohmura et al, since it is well known to utilize a pair of images to produce a stereoscopic image. Furthermore, it would have been obvious to one of ordinary skill in the art to make the images distinguishable in terms of size, shape, color, hue, luminosity contrast, resolution, and/or brightness, since it is well known in the art to modify the images to produce a stereoscopic image through the modification of a size, shape, color, hue, luminosity contrast, resolution, and/or brightness of the images.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Szmaj whose telephone number is (571) 272-

4733. The examiner can normally be reached on Monday-Friday, with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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